

1 this page?

2 A Yes. This is a similar page out of the general
3 ledger for the month of April 1994, showing basically the
4 same account.

5 Q Okay. So this page refers to WLTA as well?

6 A This is also WLTA's account designated by the 005,
7 003650, the account number down toward the bottom.

8 Q All right. Is there an entry on this page from
9 April which relates to Steve Kline's salary?

10 A Yes, there is a couple entries. If you will note,
11 please, you'll see the \$5,000 salary to Steve that was the
12 same as in March, and you'll also see the same \$1,000 being
13 accrued to LTA, but then there is an additional --

14 Q The number in the right-hand column?

15 A Excuse me. The right-hand column, you'll see the
16 five and the one, which are identical to the prior month, in
17 March that I just went over. And then there is also a
18 \$3,000 reclass entry, which means that it's taken out of
19 this account, \$3,000, which is half of the five and the one,
20 and it was reclassified to WRBR.

21 Q Let me just make sure I'm following correctly.
22 This is towards the bottom of the page an entry dated April
23 1, 1994, and then as you move up to the right-hand side of
24 the page it says "0026, reclass - admin P/R \$3,000"?

25 A That's correct. What it basically reflects is a

1 journal entry where these things come from, journals. It
2 reflects a journal entry to recall half of Steve' salary and
3 accrued bonus to WRBR for the month of April.

4 Q Okay. So this page shows us that half of the
5 salary for Steve Kline was allocated to WLTA in April 1994?

6 A The end result was half of it being allocated to
7 WLTA, correct.

8 Q Let me refer you to the next page, please.

9 Do you recognize this?

10 A Yes. This would be the similar general ledger
11 page only it's the general ledger page for WRBR or Hicks
12 Broadcasting, and this is designated by the first three
13 digits of the account number 003, company 3 is Hicks
14 Broadcasting.

15 Q Okay. And in this page which relates to April, is
16 there an entry that relates to Steve Kline's salary?

17 A Yes. That entry you'll notice in the top, right
18 at the top of the page you will see account 35350. 353
19 designates WRBR, and you'll notice that there is an entry
20 that's describe as reclass administrative payroll, and it's
21 \$3,000. The result of that was half of Steve's salary and
22 accrued bonus being charged to WRBR in the month of April.

23 Q Okay. So as of this point, April 1994, Steve
24 Kline's salary which had previously been allocated entirely
25 to WLTA is now being split between WLTA, the Pathfinder

1 station --

2 A Correct.

3 Q And WRBR, the Booth station?

4 A Correct.

5 Q What is then actually the Hicks Broadcasting
6 station. Excuse me.

7 A Sure.

8 Q Okay. What about the next page?

9 A I had referred to the manner in which -- how this
10 \$3,000 actually gets into the general ledger, and it's via
11 what's called a journal entry. And this is a copy of the
12 journal entry that was made, the journal entry about two-
13 thirds down the page there reflects that \$3,000 entry, and
14 that's just what you had seen in the general ledger. This
15 is what got it there.

16 Q So this doesn't really tell us anything new?

17 A No, it's just -- no, it's really nothing new.

18 Q And how about the next page? It says "General
19 Journal, May 1994."

20 A This appears to be the journal entry that was made
21 in May of '94. You'll notice -- you'll notice here, you'll
22 see the \$2500 being split instead of a recall made for
23 \$3,000.

24 There is a separate entry, separate accrual made
25 on Hicks' books for the 500, so that, again, in anticipation

1 for a bonus, that -- there still was a \$3,000 charge for
2 Steve Kline in the month of May. It just came in two
3 different entries.

4 Q Okay. But this page doesn't really change the
5 basic picture?

6 A It doesn't change that at all.

7 Q And then the next page, the general ledger
8 relating to May 1994?

9 A That's merely a reflection of that \$2,500 journal
10 here, and it also shows the \$500 as a separate entry that I
11 had -- that I had indicated before that it was made before,
12 only a separate entry was made of it.

13 Q All right. So as of May, Steve Kline's salary is
14 still being split 50/50 between WLTA, the Pathfinder
15 station, and WRBR, the Booth station -- the Hicks
16 Broadcasting station?

17 A Yes.

18 Q All right.

19 JUDGE CHACHKIN: All right, we'll take a 10-minute
20 recess.

21 (Whereupon, a recess was taken.)

22 JUDGE CHACHKIN: Back on the record.

23 MR. SHOOK: Your Honor?

24 JUDGE CHACHKIN: Yes.

25 MR. SHOOK: I just wanted to raise a matter before

1 we begin.

2 Before Mr. Watson was called, the Bureau did not
3 make a specific point of asking you to consider him as an
4 adverse or a hostile witness.

5 JUDGE CHACHKIN: There wasn't any need to because
6 he's a principal.

7 MR. SHOOK: Well --

8 JUDGE CHACHKIN: He's an officer of the company.

9 MR. SHOOK: Right. Be that as it may, considering
10 that Pathfinder is now doing the questioning, and the
11 questioning, you know, in one sense is cross-examination, in
12 but in another sense is more like direct examination in the
13 sense that Mr. Watson is a principal of Pathfinder, that we
14 would -- we want to have an understanding that the
15 questioning should be more in the nature of the direct
16 examination and not be so leading from the standpoint that
17 the answer itself, if you will, is contained in the
18 question.

19 We have not objected because we wanted to speed
20 this process along, but we think that, by and large, many of
21 the questions that have been asked are in leading form, and
22 we just want to make sure that any objection along those
23 lines is appropriate given the fact of Mr. Watson's status.

24 JUDGE CHACHKIN: Well, you make your objection and
25 I'll rule on it. You clearly haven't objected so there is

1 nothing to rule on.

2 MR. SHOOK: You're right.

3 JUDGE CHACHKIN: Continue, counsel.

4 MR. GUZMAN: Your Honor, I'd like to move for the
5 admission of Pathfinder Exhibit No. 70 at this time.

6 JUDGE CHACHKIN: Any objection?

7 MR. SHOOK: No objection.

8 JUDGE CHACHKIN: Pathfinder Exhibit 70 is
9 received.

10 (The document referred to,
11 having been previously marked
12 for identification as
13 Pathfinder Exhibit No. 70, was
14 received into evidence.)

15 BY MR. GUZMAN:

16 Q Mr. Watson, who told you to start allocating 50
17 percent of Mr. Kline's salary to WRBR in April of 1994?

18 A Well, I heard it from Dave Hicks, and I also heard
19 it from John. Dave Hicks told me first that Steve had been
20 approved as general manager.

21 Q Would you have started allocating half of Steve
22 Kline's salary to WRBR in the manner that we've just
23 discussed without approval from Dave Hicks?

24 A Of course not. No.

25 Q Now, does Dave Hicks receive a copy of the general

1 ledger, some of the pages of which we've been looking at?

2 A Yes.

3 Q How often does -- I'm sorry. Go ahead.

4 A Yes, he receives it monthly starting April 1994.

5 Q Let's move to a new topic.

6 Yesterday we were discussing the way the
7 accounting work under the joint sales agreement with Booth.
8 I'd like to now discuss how it worked under the joint sales
9 agreement with Hicks Broadcasting.

10 MR. GUZMAN: Your Honor, we'd like to refer back
11 to the earlier diagram, and also we have a new one to
12 reflect the accounting practice under Hicks Broadcasting if
13 it's okay with you.

14 THE WITNESS: Do you want me to proceed, Mike, or
15 do you want to ask --

16 MR. GUZMAN: Pardon me?

17 THE WITNESS: Do you want to ask me something or
18 do you want me to proceed?

19 MR. GUZMAN: Well, let me ask you a couple of
20 questions first.

21 BY MR. GUZMAN:

22 Q Under Booth, I think you testified yesterday all
23 you had was the joint sales agreement between Booth and
24 Pathfinder; is that right?

25 A That's correct.

1 Q What's different at the point when Hicks
2 Broadcasting buys the station on March 31, 1994? Were there
3 additional agreements?

4 A No, there was no -- there was no additional
5 written agreements signed. There were some -- as I
6 previously discussed, there were discussions regarding
7 sharing some additional costs, such as, again, the rent and
8 the receptionist, and I think -- those kind of things, and,
9 of course, the general manager.

10 Q You also had the accounting agreement.

11 A And the accounting agreement, right. That's
12 right, we had the accounting agreement. And the accounting
13 agreement and then my memo to Alan discussing the various
14 points regarding the -- how things were going to be handled.

15 I turned this thing this way. I wanted to make
16 sure that everyone can see it, but certainly, Your Honor.

17 JUDGE CHACHKIN: Can you get the mike in front of
18 you? Just take the mike in front of you. That's for the
19 purposes of the reporter.

20 THE WITNESS: Yes, I understand. I just -- okay.

21 MR. GUZMAN: Does anybody object if I move over
22 here so I would be able to see it at the same time?

23 JUDGE CHACHKIN: I'm just wondering if this isn't
24 confusing, because apparently there are new elements here,
25 but shouldn't we have a separate exhibit?

1 THE WITNESS: This is a separate exhibit, Your
2 Honor, and I wanted to go through that with you. I think it
3 will be fairly -- what I'll try to show you is how it was
4 exactly the same as before, and I'll even hold that one.
5 No, this is another exhibit. This is a new exhibit, Your
6 Honor.

7 MR. GUZMAN: Yes, let's identify this as
8 Pathfinder Exhibit No. 78, I believe.

9 JUDGE CHACHKIN: All right. And this Pathfinder
10 Exhibit No. 78 is what?

11 MR. GUZMAN: This exhibit demonstrates how the
12 accounting works relating to WBYT and WRBR after Hicks
13 assumed ownership on April 1, 1994.

14 JUDGE CHACHKIN: All right, that document will be
15 marked for identification as Pathfinder Exhibit 78.

16 (The document referred to was
17 marked for identification as
18 Pathfinder Exhibit No. 78.)

19 BY MR. GUZMAN:

20 Q Mr. Watson, why don't you go ahead and explain to
21 us what you've got up there on the exhibit.

22 A Okay. What I would like you to do for a moment,
23 if you could, is just kind of look at the top portion of
24 this.

25 JUDGE CHACHKIN: When you say "the top portion,"

1 you'd better identify it.

2 THE WITNESS: Okay, I will.

3 If you can for a moment look at it above that
4 dotted line.

5 JUDGE CHACHKIN: Being what?

6 THE WITNESS: Being this -- I will explain to you.

7 This above the dotted line is identical to the
8 illustration that was put up yesterday showing the -- excuse
9 me, let me do it this way -- showing the joint venture
10 revenue of \$100.00 being split 50/50, that becoming a
11 liability to Booth at this time, Hicks after April 1st.

12 The next one is identical also in that there was
13 \$80.00 worth of joint venture expenses. That was split
14 50/50, in which case that \$40.00 became a receivable from
15 Booth, and after April 1st, it was a receivable from Hicks.

16 This net, the net being a payable from Pathfinder
17 to Hicks of \$10.00 is identical to this chart, okay?

18 So it's after that there is some difference
19 entering into the accounting service agreement and combined
20 with the memo of March 4th. All of the checks, all of the
21 disbursements for WRBR were being made on Pathfinder's
22 books. So in addition to the joint venture expenses,
23 Pathfinder was then making non-joint venture expenses,
24 whatever they might be: programming -- what?

25 //

1 BY MR. GUZMAN:

2 Q I'm sorry to interrupt.

3 But what was the reason for making these non-joint
4 venture expenses?

5 A Well, the reason was is that it was just simply
6 the most efficient way to do it. You're already paying a
7 significant portion of the bills.

8 Q Under the joint venture?

9 A Under the joint sales agreement. The bills were
10 coming from the same place. They came from the same -- I
11 mean approved by the same general manager, but they were
12 being charged to the proper operation. If it was a WRBR
13 programming expense or promotion expense, it got charged to
14 them.

15 So rather than have two accounts payable lines,
16 two disbursement lines, and so on and so forth, which would
17 have added a lot more time, it wasn't done. This was just
18 at that time seen, and still seems to me to be the best way
19 to do it.

20 Q I understand that.

21 My question is simpler than that though. Why was
22 Pathfinder paying expenses on behalf of Hicks at this point,
23 the non-sales expenses, that is?

24 A Well, I -- well, I've already mentioned at this
25 time, of course, Hicks did not have a bank account. They

1 didn't -- I mean, we had a service agreement and the -- and
2 everything had been -- I'm not -- I guess I don't understand
3 your question.

4 JUDGE CHACKIN: Hicks didn't have the revenue at
5 that time, did it, to pay its own expenses?

6 THE WITNESS: It had - it had some -- excuse me,
7 in April 94?

8 JUDGE CHACKIN: Yes.

9 THE WITNESS: As it turned out, Your Honor, they
10 did not have enough revenue to cover their expenses, and
11 therefore instead of -- in this example it being a payable
12 from Pathfinder to Hicks, it was actually a receivable in
13 the month of -- I'm sorry. In the month of April, there was
14 enough money. They had enough cash to cover their cash
15 expenses. They did. With the revenue cash, they did have
16 enough, but it was in June was the first month in which --
17 where they did not have enough cash to cover their expenses,
18 and therefore it became -- they had a payable to Pathfinder.

19 As far as --

20 BY MR. GUZMAN:

21 Q Well, let's go back to this point of why
22 Pathfinder was making more, or administering the non-sales
23 expenses.

24 Was that pursuant to the joint sales agreement,
25 excuse me, to the accounting agreement?

1 A Yes, I thought that's what I had testified to.
2 That was pursuant to the accounting agreement and that
3 letter, that memo to the file, both. Then taken as
4 combined, that was the service that was being provided, that
5 was part of the service that was being provided.

6 JUDGE CHACHKIN: To pay their expenses?

7 THE WITNESS: If you will read that, but it's also
8 the letter of March 4th from Alan Campbell, that was
9 contemplated at that time is that all the checks would be
10 written on Pathfinder, and as soon as they're written, then
11 they appeared -- no matter whether it was a joint venture
12 expense or not, joint venture or non-joint venture, it
13 becomes a receivable at that very moment from Hicks to
14 Pathfinder. Hicks owes Pathfinder for that money.

15 JUDGE CHACHKIN: But was already an agreement as
16 to when they had to make their payments to pay the
17 receivable?

18 THE WITNESS: No, Your Honor.

19 JUDGE CHACHKIN: I mean, it wasn't like 30 days or
20 90 days like it was with the other creditors.

21 THE WITNESS: No, Your Honor.

22 BY MR. GUZMAN:

23 Q Let's just take the portion of the chart that is
24 above the dotted line you drew. In that respect, the
25 accounting procedures are the same, I believe you've

1 testified, under Hicks as they were under Booth; is that
2 right?

3 A That is correct. Everything was the same in that
4 respect. All the bills, all the bills were paid by
5 Pathfinder. The accounting -- not only were -- not only
6 were they paid by Pathfinder, Pathfinder was required in
7 accordance with the joint venture to keep the accounting for
8 the joint venture.

9 Q But does the portion of the chart that's above the
10 dotted line relate only to joint venture expenses under the
11 joint sales agreement?

12 A Yes.

13 Q And similarly, it relates only to joint venture
14 revenue?

15 A Yes.

16 Q And for that reason that's why these are the same
17 as the Booth/Pathfinder experience under the JSA?

18 A Yes. I mean, there was absolutely -- from this
19 point, there was no difference.

20 Q On the portion below the dotted line, it says non-
21 joint venture expense.

22 Q Not-joint venture expense which would be basically
23 any expense of Hicks or WRBR that would not relate to the
24 joint venture.

25 Q Can you give us an example of one of those

1 expenses?

2 A A very good one would be a programming expense,
3 programming consulting expense, program announcer, anything
4 to do with programming, anything to do with promotion of the
5 station that was not a sales-related promotion but listener
6 driven type promotion; the direct engineering expense to
7 WRBR; and also covered in this would be another example of
8 the -- some of the shared expenses that were not part of the
9 joint venture.

10 As I mentioned, on April 1st they started sharing
11 in the rent. That is a non-venture expense. It was -- let
12 me put it this way. It was an expense that was not in the
13 original venture with John Booth or Booth American that
14 later was an expense down here. But for every month every
15 expense down here keep in mind it became a receivable from
16 Hicks, so they got charged for it and they owed the money
17 and ultimately they paid the money to Pathfinder.

18 Q Let me just make sure I understand this. Let's
19 take an expense that is an expense encompassed within the
20 joint venture, within the joint sales agreement. Give me an
21 example of one of those expenses and then let's talk it
22 through our chart.

23 A Arbitron bill.

24 Q An Arbitron bill, okay.

25 Who actually made payment of the Arbitron bill

1 once Hicks owned assumed ownership of WRBR?

2 A Pathfinder Communications Corporation.

3 Q And did that come on a Pathfinder check?

4 A Yes.

5 Q How was it accounted for in your example?

6 A The actual bill was actually split, let's say out
7 of these \$40.00 here, let's say the Arbitron bill was \$2.00
8 of it. A dollar was expensed to Hicks Broadcasting and
9 \$1.00 was expensed to Pathfinder, and that \$1.00 that was
10 expensed to WRBR, since Pathfinder paid it, became a
11 receivable on Pathfinder's books. Hicks owed Pathfinder for
12 that \$1.00 that Pathfinder had paid on its behalf.

13 Q Okay. Now, let's take a non-joint venture or non-
14 sales expense. One of the examples you gave there was
15 programming consulting.

16 How would those expenses be accounted for in your
17 example?

18 A Okay. Let's just assume for the moment that --
19 well, that's probably not too far off as far as Arbitron
20 goes. Let's say \$1.00 of this \$6.00 -- these are -- these
21 are what I call non-joint venture expenses. And let's just
22 say that \$1.00 of that \$6.00 is an Arbitron bill. I mean,
23 not an Arbitron bill. Let's say it's a program consultant
24 bill, okay, a consultant for programming on WRBR.

25 Pathfinder paid that \$1.00, paid it on a

1 Pathfinder check, hopefully stamped it as indicated with a
2 Hicks Broadcasting stamp, and at that time that they paid
3 it, it became a receivable from Hicks that moment that it
4 was paid.

5 Q So Hicks owed that money to Pathfinder on the
6 books?

7 A They owed that money to Pathfinder.

8 Now, in this example, this is the end result of
9 the month's activity, one month, this is one month.

10 Q Let's talk about the bottom line here. You
11 referred to it as the net income.

12 A Right. Net -- and this really should be -- keep
13 in mind the only things that really affect between
14 Pathfinder and Hicks are cash items, things that are
15 actually paid. So that's really a misnomer. It's really
16 the difference between -- it could be called, it could be
17 called operating cash flow too, but anyway let's -- net
18 income.

19 Q All right. Why don't you tell us what the numbers
20 you've got in the various columns relating to net income
21 refer to, how you got there.

22 Q Well, again, down to here was just -- say it would
23 be accounting for the joint venture, and then after that you
24 have to subtract your non-joint venture expenses which
25 result in the net income, and then so you -- in BYT's case,

1 which really isn't pertinent to the schedule, is three, and
2 in Hicks' case their non-venture expenses paid by Pathfinder
3 was six. So their net income was four.

4 Now, if their net income was four, then that
5 became a payable from Pathfinder to Hicks of four.
6 Pathfinder paid it. I mean, Pathfinder owed it to Hicks
7 because that was their income for the month. That was their
8 net activity for the month.

9 Q All right, So in this example at the end of the
10 month Hicks has net income of \$4.00?

11 A Right.

12 Q How does that go on the books at Pathfinder?

13 A That is a payable to Hicks. On Pathfinder's books
14 it is an account payable to Hicks Broadcasting LLC \$4.00 --
15 or excuse me. It -- really all this activity shows on
16 there. The net activity for the month is \$4.00. All of
17 these activities actually show in the account, the net
18 activity being \$4.00.

19 JUDGE CHACKIN: And when will Pathfinder actually
20 pay the \$4.00 to Hicks?

21 THE WITNESS: Your Honor, prior to 1-1 of '97,
22 there was -- there was just an accumulation of that balance.
23 In other words, sometimes during that period of time
24 Pathfinder owed Hicks, sometimes Hicks owed Pathfinder, and
25 so there was a -- it was just an accumulation.

1 Let's say that this four, this four was carried to
2 the next month, and then the next month's net activity was
3 either added or subtracted, so it was accumulated, and it
4 was in January 1st of '97, Your Honor, that it was -- we saw
5 that there was always -- there was going to be an extended
6 period, hopefully for a long, long time, that Hicks' -- the
7 balance was owing to Hicks. Pathfinder owed Hicks because
8 they were doing well and they were having good revenue.

9 So starting in January '97, Your Honor, that
10 balance, that net activity for any given month is paid at
11 the 60-day level mark, 60 days afterwards, and 90 days
12 afterwards. Prior to that, the net activity was accumulated
13 each month. Again, resulting in -- sometimes the balance at
14 the end of the month, sometimes it resulted in Pathfinder
15 owing Hicks, and sometimes it resulted Hicks owing
16 Pathfinder.

17 JUDGE CHACHKIN: But never one made payments until
18 January 1997?

19 THE WITNESS: The procedure went into effect with
20 January's net activity. The actual payment, first payment
21 under that procedure came 60 days later in March, but, yes,
22 that is correct, Your Honor.

23 BY MR. GUZMAN:

24 Q Well, let me explore that a minute. In this
25 example Pathfinder owes Hicks \$4.00.

1 In whose account is this \$4.00 residing?

2 A The bank account?

3 Q Um-hmm.

4 A It's residing in Pathfinder's bank account, but
5 it's -- it's -- the money is in Pathfinder's bank account
6 but it is at that point shown as a liability to Hicks. I
7 want to make that clear.

8 Q Understood.

9 A Okay.

10 Q And if Hicks wanted the money, they could get it
11 at any time?

12 A Yes.

13 MR. SHOOK: Objection; speculation.

14 THE WITNESS: Yes.

15 JUDGE CHACHKIN: Sustained. Strike the record.

16 BY MR. GUZMAN:

17 Q All right. Well, let's talk about -- this is a
18 hypothetical example, okay, and in this example it ends up
19 that Pathfinder owes Hicks, if I've understood it correctly,
20 because Hicks has net income for the month.

21 For the month of April 1994, do you know whether
22 Pathfinder -- well, let me state it differently.

23 In the month of April 1994, do you know whether
24 Hicks Broadcasting had positive net income?

25 A You're talking about April of '94; is that

1 correct?

2 Q April '94.

3 A Okay. There is one other thing that enters into
4 this payable and receivable. If you recall, anytime --
5 since Hicks did not have a bank account, anytime that cash
6 comes into the company, it was deposited in the Pathfinder's
7 account because we knew there were going to be bills coming
8 in, they were paying all the expenses, so in the month of
9 April that escrow deposit came back. That escrow -- the
10 escrow deposit was put into the Pathfinder's bank account
11 and it created a payable to Pathfinder because it was Hicks'
12 money.

13 So at the end of the month of April, aside from
14 this activity, that cash had come in which had created
15 really a positive operating balance for the month of April,
16 but it was a -- and April was a little bit difference in
17 that it was the result of this activity, plus the escrow
18 deposit that had come back.

19 Did that answer?

20 Q Yes.

21 How about in the month of May 1994, do you know
22 whether Hicks had a positive or a negative operating balance
23 at that point?

24 A In May, the operating balance was still positive.
25 There was still -- at that point Pathfinder still owed Hicks

1 Broadcasting at the end of May.

2 MR. SHOOK: Your Honor, I think the record would
3 be greatly clarified if reference were made to the financial
4 statements that are in the record rather than --

5 JUDGE CHACHKIN: Are there financial statements in
6 the record which show --

7 MR. SHOOK: Yes, Your Honor.

8 JUDGE CHACHKIN: -- all this from month to month?

9 MR. SHOOK: We have the April 1994, we have all
10 the 1994, up to the middle of, I guess it's May 1998,
11 financial statements for Hicks. I just believe that the
12 record would be clarified greatly if reference were made to
13 those statements rather than asking -- you know, testing the
14 witness's memory at this point.

15 JUDGE CHACHKIN: I agree. Why ask him about
16 specific months, let's show him the financial records and
17 then he could state what the financial records show for that
18 month.

19 MR. GUZMAN: Well, Your Honor, I'm not intending
20 to go month by month. I'm trying to set up an overview
21 here.

22 BY MR. GUZMAN:

23 Q I gather from the record we've already seen there
24 are various months that Hicks Broadcasting of Indiana has a
25 negative operating balance or negative income for that

1 month.

2 In approximate terms, Mr. Watson, how many months
3 did Hicks Broadcasting have negative -- have a negative
4 operating balance?

5 MR. SHOOK: Your Honor, again --

6 JUDGE CHACHKIN: I'll sustain the objection. The
7 record will speak for itself. You have the records.

8 THE WITNESS: I happen to know that only because
9 I've looked at the records.

10 JUDGE CHACHKIN: Well, why don't we review the
11 records and count up, not approximately, specifically each
12 month or else we'll let the record speak for itself and get
13 the exact times. No sense approximating. We have the
14 records.

15 THE WITNESS: I've done that. Does that help?

16 JUDGE CHACHKIN: The witness has the exact number
17 of times, not an approximate number of times, based on his
18 review of the record that's stated. Otherwise, the record
19 will stand for itself.

20 THE WITNESS: I do have that if that would be
21 helpful, only because, I mean, I've looked at this whole --

22 JUDGE CHACHKIN: Give us the exact number of times
23 based on your review of the record.

24 THE WITNESS: Since April 1, 1994, through
25 December of 1997, there were 16 months in which Hicks had a

1 negative operating balance. So in that period of three and
2 three-quarters years, there were 16 months in which they had
3 a negative operating balance.

4 All of the other months there would be what you
5 might call a positive operating balance, and in which case
6 Pathfinder owed Hicks money in all the other months.

7 To give you some idea, again, the record does
8 speak for itself, I guess, but the negative operating
9 balance for Hicks, cumulative negative operating balance at
10 one month was, the highest, around \$80,000. I'm not
11 specific on that, but very close, \$80,000. The positive
12 operating balance, the highest amount that Pathfinder ever
13 owed Hicks was a little over \$175,000 -- close to that
14 number.

15 And then, of course, starting in January '97 and
16 since then, we have -- there is a procedure that's been
17 established so that it provides for payment of any liability
18 that Pathfinder has, and there is also, excuse me, a
19 procedure that was started, and I probably need to correct
20 some testimony I made, because I think that I had said that
21 if Hicks owed Pathfinder money, then that is -- needs to be
22 cleaned up within 30 days, you recall? And I think I said
23 that started in April '96. It started in April '97.

24 JUDGE CHACHKIN: '97.

25 THE WITNESS: Yes, Your Honor.

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1 JUDGE CHACHKIN: I believe you said April '97.

2 THE WITNESS: Okay. Well, if I did, then that is
3 right, okay.

4 BY MR. GUZMAN:

5 Q Now, in these 16 months when at the end of the
6 month, in essence, Hicks owed Pathfinder, that Hicks had a
7 negative operating balance, did Hicks pay or was Hicks
8 charged any interest for this?

9 A No.

10 Q And in the remainder of the month when Pathfinder
11 owned Hicks because Hicks has positive cash flow or positive
12 operating balance, did Pathfinder pay Hicks any interest?

13 A No.

14 MR. GUZMAN: At this point, Your Honor, I don't
15 believe I have any further questions.

16 JUDGE CHACHKIN: Of this witness?

17 MR. GUZMAN: Of this witness.

18 JUDGE CHACHKIN: All right, we have some more
19 cross-examination, I assume.

20 MR. WERNER: I probably have a few questions, Your
21 Honor. I would also like to identify our exhibits.

22 JUDGE CHACHKIN: All right.

23 MR. GUZMAN: As a cleanup item, Your Honor, I
24 would move for the admission of these two exhibits,
25 Pathfinder Exhibits 75 and 78 to which Mr. Watson has been

1 referring.

2 JUDGE CHACHKIN: Well, 75 is the -- what is 75?

3 MR. JOHNSON: Seventy-five is the drawing from
4 yesterday, I believe, Judge Chachkin.

5 JUDGE CHACHKIN: Oh, oh, all right. Any
6 objection?

7 MR. SHOOK: None, Your Honor.

8 JUDGE CHACHKIN: Seventy-five is received.

9 Seventy-eight is the revised drawing. Any
10 objection to that?

11 MR. SHOOK: The chart that we were referring to?

12 JUDGE CHACHKIN: Yes.

13 MR. SHOOK: No, Your Honor.

14 JUDGE CHACHKIN: All right, Pathfinder Exhibit 78
15 is also received.

16 (The document referred to,
17 having been previously marked
18 for identification as
19 Pathfinder Exhibit No. 78, was
20 received into evidence.)

21 MR. HALL: Your Honor, I have copies for
22 Pathfinder and for Hicks that replaces the one that was
23 previously distributed so that it shows the changes, and the
24 reporter has got two copies. I'm going to distribute it to
25 the parties.

1 (Pause.)

2 MR. HALL: Your Honor, it will take about five
3 minutes to run through the exhibits. May Mr. Watson be
4 excused for that period.

5 JUDGE CHACHKIN: Oh, just the exhibits?

6 MR. HALL: Yes, just to identify them. Well,
7 there is only 14, if you want him to say, that's fine.

8 JUDGE CHACHKIN: He might as well stay.

9 MR. WERNER: May I begin, Your Honor.

10 JUDGE CHACHKIN: Yes.

11 MR. WERNER: Hicks Exhibit No. 1 is a memorandum
12 to Steve Kline from Bob Watson dated May 2, 1994; one page
13 in length.

14 JUDGE CHACHKIN: The document will be so marked.

15 (The document referred to was
16 marked for identification as
17 Hicks Exhibit No. 1.)

18 MR. WERNER: Document No. 2 is a letter from Alan
19 Campbell to David Hicks dated December 17, 1993. It is a
20 facsimile, and consists of 14 pages.

21 JUDGE CHACHKIN: The document is so marked.

22 (The document referred to was
23 marked for identification as
24 Hicks Exhibit No. 2.)

25 MR. WERNER: Hicks Document No. 3 is -- consists

1 of handwritten notes, two pages, bearing the date February
2 28, 1994.

3 JUDGE CHACHKIN: The document will be so marked.

4 (The document referred to was
5 marked for identification as
6 Hicks Exhibit No. 3.)

7 MR. WERNER: Exhibit No. 4 is the signed version
8 of the operating agreement of Hicks Broadcasting dated March
9 23, 1994, and it consists of 21 pages.

10 JUDGE CHACHKIN: The document will be so marked.

11 (The document referred to was
12 marked for identification as
13 Hicks Exhibit No. 4.)

14 MR. WERNER: Exhibit No. 5 is a facsimile cover
15 sheet and attachment to Steve Stankewicz, spelled
16 S-T-A-N-K-E-W-I-C-Z, from Scott Troeger, spelled
17 T-R-O-E-G-E-R, dated March 31, 1994, and it consists of
18 three pages.

19 JUDGE CHACHKIN: The document will be so marked.

20 (The document referred to was
21 marked for identification as
22 Hicks Exhibit No. 5.)

23 MR. WERNER: Exhibit No. 6 is a series of
24 financial records, the cover page having a check requisition
25 from Pathfinder Communications Corporation.

1 JUDGE CHACHKIN: The document will be so marked.

2 (The document referred to was
3 marked for identification as
4 Hicks Exhibit No. 6.)

5 MR. WERNER: Exhibit No. 7 is copies of checks
6 from David Hicks to Hicks Broadcasting bearing various dates
7 and it consists of seven pages.

8 JUDGE CHACHKIN: The document will be so
9 marked. Exhibit No.

10 (The document referred to was
11 marked for identification as
12 Hicks Exhibit No. 7.)

13 MR. WERNER: Exhibit No. 8 is a draft Radio
14 Program License Agreement, a facsimile version, dated
15 February 8, 1996, and consists of 14 pages.

16 JUDGE CHACHKIN: The document is so marked.

17 (The document referred to was
18 marked for identification as
19 Hicks Exhibit No. 8.)

20 MR. WERNER: Exhibit No. 9 is a memorandum dated
21 January 30, 1997, to David Hicks from Bob Watson, and it
22 consists of one page.

23 JUDGE CHACHKIN: The document will be so marked.

24 //

25 //

1 (The document referred to was
2 marked for identification as
3 Hicks Exhibit No. 9.)

4 MR. WERNER: Hicks Exhibit No. 10 is a draft dated
5 November 4, 1993 of an Asset Purchase Agreement. It
6 consists of 12 pages.

7 JUDGE CHACHKIN: The document will be so marked.
8 (The document referred to was
9 marked for identification as
10 Hicks Exhibit No. 10.)

11 MR. WERNER: Exhibit No. 11 is a memorandum to
12 several people from Bob Watson dated August 21, 1996. The
13 exhibit consists of three pages.

14 JUDGE CHACHKIN: The document will be so marked.
15 (The document referred to was
16 marked for identification as
17 Hicks Exhibit No. 11.)

18 MR. WERNER: Exhibit No. 12 is a document entitled
19 Radio One Marketing of Mishawana, 1994, Operating Budget.
20 It's dated December 12, 1993, and it consists of five pages.

21 JUDGE CHACHKIN: The document will be so marked.
22 (The document referred to was
23 marked for identification as
24 Hicks Exhibit No. 12.)

25 MR. WERNER: Exhibit No. 13 is an undated document

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1 identified as WRBR Radio 1994 Operating Budget, and it
2 consists of 28 pages.

3 JUDGE CHACHKIN: The document will be so marked.

4 (The document referred to was
5 marked for identification as
6 Hicks Exhibit No. 13.)

7 MR. WERNER: And Exhibit No. 14 are undated
8 handwritten notes regarding WRBR budget and budget
9 questions, and it consists of two pages.

10 JUDGE CHACHKIN: The document will be so marked.

11 (The document referred to was
12 marked for identification as
13 Hicks Exhibit No. 14.)

14 MR. SHOOK: Your Honor, if I may, with respect to
15 Document No. 3, I am not certain that I heard counsel
16 correctly as to whether or not there was a date associated
17 with that document.

18 MR. WERNER: There is no date that appears on the
19 document itself.

20 MR. SHOOK: All right. Did you make reference to
21 a date though?

22 MR. WERNER: Did I?

23 MR. HALL: Yes.

24 MR. WERNER: I'll strike that reference. Excuse
25 me.